

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

Ground Cover tracks legislative and regulatory reform in resource management, local government and planning law.

Resource management

Tax Working Group on environmental taxes

The Tax Working Group (TWG) was asked to examine the role of the tax system in delivering positive environmental and ecological outcomes and devoted 16 pages to this question in its final report.

It found that New Zealand's natural capital "is losing its capacity to produce the ecosystem services that we depend on" and that turning this around will require "profound changes to the structure of economic activity".

New Zealand rates 30th of the 33 countries in the Organisation for Economic Co-operation and Development (OECD) in terms of the proportion of total tax revenue derived from environmental taxes, and over 80% of our current take comes from fuel taxes, road user charges and vehicle registration fees – none of which are levied for environmental purposes.

Over the short term (the next five years), the TWG recommends making more use of tax as a lever to price negative environmental effects – in particular greenhouse gas emissions, water pollution, water abstraction, solid waste and road transport.

Specific recommendations include:

- emissions: bringing agriculture within the Emissions Trading Scheme (ETS), ensuring a more realistic price on carbon and allowing for New Zealand units to be auctioned (all of which are already on the Government's policy horizon)
- water pollution: a polluter pays system, either through locally variable pricing tools or a national charge – e.g. a fertiliser tax

- water abstraction: a tax on use could serve many purposes (rationing the water take, encouraging efficient water use, funding the restoration of degraded water bodies). But the TWG acknowledges that this is a "particularly challenging policy area in New Zealand" and would require the resolution of Māori rights and interests
- solid waste: a substantial increase in the rate and reach of the Waste Disposal Levy (which is currently set at \$10 a tonne and limited to the 11% of landfills which accept household refuse), and
- transport: the TWG sees a larger role for congestion pricing.

[TWG report](#)

EDS report will be influential in RMA review

The Environmental Defence Society's (EDS) Synthesis Report, launched last month, may be influential in the second stage review of the Resource Management Act (RMA). The EDS has put up three reform models and will develop its preferred option over the course of this year, plus a transition path from the status quo.

Environment Minister David Parker, who was at the launch, said the report was "a significant contribution" which would inform the Government's approach to the reform of the resource management system and that he expected to be able to report to Cabinet soon on the terms of reference.

[Chapman Tripp commentary](#)

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

Climate change

Local government liability for lack of climate change adaptation

Jack Hodder QC, in a paper prepared for presentation to a Local Government New Zealand (LGNZ) meeting, says it may only be a matter of time before New Zealand has its first large damages claim for a failure to implement adaptation measures such as controlling development and protecting coastal areas.

He considers that the solution to the liability issue “would sensibly recognise that anthropogenic climate change is a major “meta-externality” requiring collective action on the broadest scale, and funded on the broadest base (i.e. central government taxation)”.

The advice has generated significant interest in legal circles and was circulated by LGNZ to all its members.

[Paper](#)

100% renewable energy target may be dropped

James Shaw signalled in a Q&A session at a conference this month that the Government may move on its ambition to achieve 100% renewable energy by 2035, if that is the recommendation from the Interim Climate Change Committee.

The committee chair David Prentice said in December that, although technically feasible, achieving the target would be expensive and made little sense given that the sector accounted for about 5% of the country's emissions and that the country was better to focus on electrifying transport and industry.

This broadly aligns with the position taken by the Productivity Commission in its report on the transition to a low carbon economy.

Interim Climate Change Committee to report directly to the Minister

The Interim Climate Change Committee will now deliver its reports on agriculture and renewable energy generation to the Minister of Climate Change rather than – as initially envisaged – to the Climate Change Commission.

The announcement, which was made on the day of climate change action by school pupils, will advance the timetable for decisions as the Commission will not be established until the Zero Carbon Act is passed.

[Statement](#)

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

The Commissioner for the Environment creates a stir

Climate Change Minister James Shaw abandoned his usual inclusive, consensus-building approach to shoot down the Parliamentary Commissioner of the Environment's report *Farms, forests and fossil fuels: the next great landscape transformation* in advance of the report's public release.

The intervention reflects the extent to which Commissioner Simon Upton's analysis challenged established policy. His principal recommendations were to:

- push the target date out from 2050 to the "second half of the century" (with clear progress made by 2050), saying this would still be consistent with the Paris Agreement and should not be ruled out if it provided a more credible and achievable timeframe to effect the economic transformation required
- adopt the "two baskets" approach to long and short-lived gases – i.e. developing two separate targets: a zero gross fossil emissions target to be written into the Zero Carbon Act at inception, and a reduction (not elimination) target for biological emissions to be recommended by the new Climate Change Commission and legislated for later. Another point of difference is that Upton also suggests that nitrous oxide should be treated as a short lived gas, as its warming effects diminish faster than carbon dioxide, and
- only allow forestry emission units to be used to offset biological emissions, rather than forestry emission units being accessible to any emitter (as is the case in the ETS as it currently exists).

Upton said that placing biological methane and nitrous oxide emissions together with forest sinks in the same policy basket would underscore the fact that the two are often co-produced and co-managed in the New Zealand landscape.

His contribution received a strongly positive response in a survey by the Science Media Centre of eight climate change experts. The most negative opinion was that the level of policy volatility proposed would be hard to manage. But even this expert said that the two-system approach could be "a valid choice" if New Zealand was starting from scratch.

The Productivity Commission took a similar view, and recommended that a quota management system for methane might be more appropriate than the ETS.

[PCE report](#)

[Minister's statement](#)

[Science Media Centre survey](#)

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

Counting the cost on the coast

A report commissioned by LGNZ from Tonkin & Taylor Ltd to quantify the replacement value of the damage to council owned infrastructure from sea level rise at four increments – 0.5, 1, 1.5 and 3 metres – makes sobering reading.

Findings include:

- a total cost of over \$13b for a 3 metre rise, and almost \$8b for 1.5 metres
- exposure will be greatest for Canterbury at 1.5, followed by Hawke's Bay and Auckland. Other areas of high risk include greater Wellington, Bay of Plenty, Otago and Waikato, and
- the rate of increase will accelerate over time, requiring that councils provide for a long lead-time in their mitigation planning and early communication with ratepayers.

Among the actions, LGNZ is proposing in response to the research are:

- to coordinate with central government to create a National Climate Change Adaptation Fund to improve stakeholder participation in the mitigation response and to ensure equitable outcomes, and
- creating a Local Government Risk Agency which will be charged with improving local government capability and capacity to identify and understand risk.

[Report](#)

Climate change risks in Auckland

Climate Change Risks in Auckland, a technical report prepared by Auckland Council to inform the development of Auckland's Climate Action Plan, finds that the impacts will be uneven across the population.

In particular, the health effects of extreme heat and reduced air quality are expected to be strongest in South and West Auckland reflecting a low share of greenspace, a high incidence of single person households, a limited ability to adapt due to high socio-economic deprivation and low home ownership rates, high numbers of young and old and high Māori and Pasifika populations with large representations in "heat sensitive occupations" such as construction and labouring.

Auckland also has a high exposure to sea level rise, which could put a quarter of its buildings at risk of flooding.

[Report](#)

Agricultural Greenhouse Gas Research Centre – good but yet to make a difference

A review into the performance of the New Zealand Agricultural Greenhouse Gas Research Centre by a panel of New Zealand and Australian experts has found that it maintains high quality in all facets of its work and has been "very successful internationally" but has yet to deliver any significant on-farm benefits.

"There is a general observation from industry stakeholders that the Centre is yet to provide useful mitigations for farmers to use in the short-term," the report states.

Low emissions feeds and low methane sheep were nearing market-ready status but inhibitors and vaccines had "still a way to go".

[Report](#)

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

Big ups for Hawke's Bay from the OECD

An OECD report on *Responding to Rising Seas* has identified the Clifton to Tangoio Coastal Hazards Strategy adopted by local authorities in the Hawkes' Bay as world-leading, saying it "has many aspects that can be readily adapted for use by other jurisdictions".

The OECD notes more broadly that New Zealand is particularly vulnerable to sea level rise having one of the longest coastlines in the OECD and one of the smallest populations.

[↪ OECD report \(pages 137 to 153\)](#)

[↪ Statement](#)

Local government

Promoting "localism"

LGNZ and The New Zealand Initiative have joined forces to promote devolved decision-making through their "Localism Project". The campaign was launched with a symposium in Wellington in February.

LGNZ says that power is heavily concentrated in Wellington and that an analysis of OECD countries shows a correlation between local control and productivity.

Currently, for every \$1 spent by local authorities, central government spends \$7.30.

[↪ Statement](#)

Changes to ETS to encourage tree planting

Changes to the accounting treatment of forests registered during and after this year are expected to encourage the planting of another 89 million trees, providing for an extra 45 million tonnes of sequestered carbon dioxide.

The new methodology will be mandatory for all new forests registered in the ETS from 1 January 2021 but will be available on a voluntary basis for new forests registered in the ETS from this year.

The effect will be to allow forest owners to trade more New Zealand Units at lower risk and to reduce administrative costs principally through foresters not having to surrender units when they harvest.

The new rules complement the changes announced in December last year, and will be followed by a third tranche in May.

[↪ Ministerial announcement](#)

Reviews in progress

The Prime Minister has promised that 2019 will be the "year of delivery" so Chapman Tripp has updated a publication we produced last year on the various reviews the Government has underway and which will be reaching decision/implementation point soon.

The list doesn't attempt to be exhaustive but focuses on those work streams that will most directly affect the business sector – many of which are in the resource management/environment/climate change area.

[↪ Reviews in progress](#)

Contents

Resource management	1
Climate change	2
Local government	5
Contacts	6

Chapman Tripp's national environmental, planning and resource management team offers market-leading expertise and a seamless service for all your commercial projects, land use, infrastructure development and consenting needs.

Contacts

Primary contacts



CATHERINE SOMERVILLE-FROST – PARTNER

T: +64 9 358 9813
M: +64 27 486 3309
E: catherine.somerville-frost@chapmantripp.com



PAULA BROSNAHAN – PARTNER

T: +64 9 357 9253
M: +64 27 216 3952
E: paula.brosnahan@chapmantripp.com



JO APPELYARD – PARTNER

T: +64 3 353 0022
M: +64 27 444 7641
E: jo.appleyard@chapmantripp.com



LUKE HINCHEY – PARTNER

T: +64 9 357 2709
M: +64 27 599 5830
E: luke.hinchey@chapmantripp.com



BEN WILLIAMS – PARTNER

T: +64 3 353 0343
M: +64 27 469 7132
E: ben.williams@chapmantripp.com



REBECCA TOMPKINS – SENIOR ASSOCIATE

T: +64 9 357 9258
M: +64 22 173 6216
E: rebecca.tompkins@chapmantripp.com

ETS specialists



JO PEREIRA – SPECIAL COUNSEL

T: +64 9 357 9886
M: +64 27 559 9139
E: jo.pereira@chapmantripp.com



ALANA LAMPITT – SENIOR ASSOCIATE

T: +64 9 357 9891
M: +64 27 390 5890
E: alana.lampitt@chapmantripp.com